



# City of Carmel

## **CARMEL PLAN COMMISSION SPECIAL STUDIES COMMITTEE**

**NOVEMBER 9, 2004  
SPECIAL MEETING**

### **Minutes**

The Special Meeting of the Special Studies Committee met November 9, 2004 in the Caucus Rooms of City Hall at 7:00 PM.

Members present: Jerry Chomanczuk, Chairperson; Mark Rattermann; Madeleine Torres, thereby establishing a quorum.

Jon Dobosiewicz attended the meeting on behalf of the Department of Community Services, City of Carmel.

#### **The Special Studies Committee considered the following single item:**

**1. Docket Nos. 04060035 OA and 04060036 Z: Village of WestClay**

The applicant seeks to amend their PUD ordinance. The applicant also seeks to Rezone 30 acres from S-1/Residence-Estate to PUD-Planned Unit Development. The site is located at 131st St and Towne Rd.

Filed by Brandon Burke of The Schneider Corp, for Brenwick Development Co.

Present on behalf of the Petitioner: Dave Warshauer, attorney, Barnes & Thornburg; Tom Huston, Brenwick Development; Keith Lash, Brenwick Development.

Dave Warshauer had the following opening comments. There are no land plan changes to discuss at this time, and the petitioner will continue working from the land plan presented last week. There were a couple of pages of Ordinance changes to cover some of the issues previously discussed regarding the peripheral retail area. At the appropriate time this evening, those can be highlighted.

#### **Committee Comments:**

At this time, the Committee referenced the PUD Ordinance and continued its review, page-by-page, beginning with page 20 of 71 pages. Committee members with comments or questions should bring those up as the page is discussed.

Pages 20, no issues.

Page 21, paragraph 6.2B regarding permitted uses as home based offices—Jerry Chomanczuk asked why medical, dental, and real estate offices are not permitted as home-based offices but yet lawyers, CPA's, therapists, are permitted as home-based offices.

Tom Huston explained the reasoning—medical, dental, and real estate offices simply generate too much traffic. Lawyers, CPA's, and therapists are usually on an appointment basis, sporadic, and would generate less traffic. At this time, there is only one, home-based office in the Village and that is a lady who runs a photo studio. Home occupation is defined under the General Ordinance. If the home is the primary place of business, it may qualify as a home-base office. The home-based office area is in the primary area of the Village.

Question regarding Section 6.2.F, Signage, wall-mounted sign not to exceed three square feet—seems somewhat small. Tom Huston responded that the idea is not to be intrusive or obtrusive.

Jerry Chomanczuk noted a prior discussion regarding hours of operation geared towards the peripheral area, and wondered if any headway had been made. Tom Huston referred to Section 8.3 and the issue of drive-thru service. Also, Section 8.4 specifies: "Without the approval of the Commission, no restaurant located in the Peripheral Retail Area shall be open for business between the hours of 11:01 PM and 6:00 AM, except that the closing time may be extended from 11:01 PM to 1:00 AM on Friday and Saturday nights."

Page 22, no issue.

Page 23, Section 8.8 states that "Retail establishments shall be permitted to have sidewalk displays of retail merchandise." Jerry Chomanczuk commented that flowers would be OK, but antiques and a large variety of items would not be preferable.

Tom Huston responded that this language is not new, it is in the existing Ordinance and is not a change. Secondly, an antique shop is a regulated use. The Declaration of Covenants and Restrictions has a separate, supplemental Declaration that covers the Village Center. For example, there are detailed regulations for outside dining. There are also regulated uses or certain uses that can easily get out of control, such as an antique shop (or flea market) that requires specific approval from the Village Design Review Board.

Mark Rattermann questioned the distinction between the Village Center and the Peripheral Retail Area—does this apply to all commercial? Tom Huston responded that these are the only two areas in which commercial development is permitted. Mark Rattermann also questioned the amount of aggregate square footage. Initially the aggregate square footage could not exceed 200 square feet—it now says 274,800 square feet. Tom Huston reminded Mark Rattermann of the formula of a maximum of 200 square feet per dwelling unit and not more than 90 square feet of that could be retail, no more than 150 could be office space. Sections 8.2, 8.3, and 8.4, and the existing Ordinance spelled it out—the language was condensed into one paragraph.

Page 24, there are some reductions noted in Section 8.9—from not less than 30 feet in width. Tom Huston said that was because they were on the northwest corner and buffering against the

residential to the west and to the north. In the revision, the buffering is to the northeast along Towne Road and 131<sup>st</sup> Street, areas that are across from the existing portion of the Village of WestClay rather than areas outside the Village of WestClay. The same holds true in 8.14 that was eliminated—a 50 foot setback. (The 10 acres north of the 30 acres, and The Lakes at Hayden Run.

Page 25, no issues.

Page 26, 10.5, A-B-C-D and F ---E was eliminated—F will become E.

Page 27, the Table, no issues.

Page 28, explanation of the Table, no issues.

Page 28, 10.9B, the width of the cartway has been reduced from 18 feet to 12 feet. Tom Huston said this is a conceptual issue. The Village uses it where there is a grass median between two cartways—this is intended to permit diagonal parking if the right-of-way is not less than 18 feet wide and the adjacent cartway is not less than 12 feet. Mr. Huston explained that basically, there are two things into play. One is the ability to have a thru-drive at 12 feet and then 18 feet of additional pavement for diagonal parking. The pavement width is 30 feet, not 12 feet. The second thing is the ability to be able to bury that so that the width of the median can vary as you bring it down—it is really a traffic control device that allows you to narrow the street and slows traffic. If it is a straight shot and a wide road, it is an invitation to travel fast.

Page 29, no issues.

Page 30, no issues.

Page 31, 13.1, does it make sense to include Village lofts? Mr. Huston responded that lofts were not excluded because they are people who in fact are likely to be using the recreational space and they should be included. The assisted living units were excluded on the theory that if you are in an assisted living unit, you are probably not likely to be making extensive use of the recreational area.

Page 32—the focus is the 15.3 small lot, single family reduction of 12 ½% in the minimum lot area. Mr. Huston distributed photographs of the area. The smallest permitted lot in the Ordinance is 18 feet for an attached townhome. The next largest goes to a duplex which has a 30-foot minimum. Today, the single family, detached has a 40-foot median minimum. The “Cottages” at WestClay are free-standing, detached units except at the very back they are attached, again, on 30-foot lots, attached at the back only to qualify as a duplex in order to come within the scope of the Ordinance. We would like to be able to simply reduce the requirement for a single, detached unit down to 32 feet so that the product can be built without having to go through the rigor of attaching at the back.

Mark Rattermann commented that the last thing the Plan Commission wants to do is micro-manage the Village’s market—that what is done, in essence, with lot sizes. However, that is when the overall density is emphasized. There are no rules if you don’t look at the overall density because the zero lot line issue and whether they are 30-foot lot lines or 60-foot lines or 80-foot lines—that is market driven. In the spirit of the ROSO Ordinance and the spirit of this whole PUD has been to allow common areas to substitute for big back yards and big side yards, etc. Mr. Ratterman said he was very much in favor of that, but that he looked at overall density

as a significant issue. Therefore, you don't end up having to micro-manage the width and depth of the lots. The market changes and you should not have to adjust according to the market.

Mr. Huston commented that Brenwick started from scratch developing this project, and they have learned as they have progressed. Six years ago, 40 feet seemed like a pretty small lot and why would the market want anything less? As you progress, you find out that things do change.

Page 33, question on 15.3.2, Congregate Housing, A, there is a minimum of 50,000 square feet—that is probably a “typo.” Mr. Huston's recollection is that this was changed to 15,000 square feet. The committee was comfortable with 15,000 square feet and did not think it was an issue.

Page 34, no issues.

Page 35, comment on 15.8A, minimum lot area—there is a change from 2,000 to 1,000 square feet—is that sufficient for mixed use? Mr. Huston said it is sufficient to provide flexibility.

Jerry Chomanczuk also commented about the height of commercial uses in the peripheral area and the primary area. We have gone from 50 feet in the primary area, 40 feet in the peripheral/retail area, the Village Center has a combination of 50-45 feet.... Mr. Huston stated that currently it is 45 feet whether in the primary area or on the west side; 45 feet is the provision in the general Ordinance. Because of the Greek Revival design of the Meeting House, the roof line—the actual top of the Meeting House with the cupola on top—it is 56 to 60 feet tall. The current design is 5 feet more than presently authorized. Because of concerns expressed by the remonstrators about the height of buildings, The Village has reduced what is presently permitted from 45 to 40 feet. The concern is three blocks and 50 feet in building height. There will be three buildings. The building on the corner will have retail on the first floor across from Broccoli Bill's, and will be completely isolated from the Condominium portion of the building. There will be nine (9) condo units and they will tie-in with the building currently under construction. The condominiums will have attached garages that will take up part of the first floor grade

Page 36 at the bottom going into page 37. Gasoline pumps and light standards may be located in any yard.....the question is the definition of yard. The glossary gave no definition for yard. Mr. Huston clarified that if no definition is listed, the regular Ordinance with definitions would apply. There is a definition of yard in that Ordinance. Dave Warshauer referred to Section 3, Definitions. Page 5 says that “Any word used in this Ordinance which is not defined herein, and which is defined in Section 3 of the Zoning Ordinance and Section 4 of the Subdivision Control Ordinance shall, for the purposes of this Ordinance, have the meaning defined therein.” The definition of “yard” is picked up directly out of the Zoning Ordinance. Jon Dobosiewicz stated that if there was something peculiar about the PUD definition of yard and it was inconsistent with the Carmel Ordinance, the definition should be included, otherwise, not.

Page 38, No issue.

Page 39, No issue.

Page 40, No issue

Page 41, No issue

Page 42, No issue

Mark Ratterman commented that the landscaping plan is excellent and historically, everything that has been done in the Village has been top notch, even before there were buildings in place, the landscaping was done.

Page 43, 16.17A, The Committee asked for an explanation of the stacking plan. Tom Huston said the Michigan Road Overlay that was adopted by the Commission was utilized as a guideline. The only reason carwash was included was in the event of a free-standing carwash—this is not likely, though. Jerry Chomanczuk was concerned with stacking traffic into a thoroughfare.

Page 44 Trash collection areas and/or enclosed dumpsters—do these fall in the category of Accessory Building? Tom Huston responded “Yes, except when they appear in the Common Areas.” The objective was to keep these dumpsters to a minimum and essentially group deposit areas so that not every building that comes in has its own trash disposal.

Page 45, there is a two-inch distinction between Village Center and peripheral retail area. Tom Huston responded that this was redone because the difference in design between Art Deco and Victorian Design makes it desirable; also the fact that the Carmel Sign Ordinance does not impose any limitation on the size of the letters.

Page 46, No Issue

Page 47, No Issue

Page 48, Illumination of signs. Tom Huston said the signs are not back-lit and thus far in the Village, there are no ground-mounted signs—up-lights are not permitted! The only signs are applied to the buildings, and those have no lights attached. Early on, the wattage of the streetlights was too great and the lights were retro fitted in order to reduce the illumination.

Jon Dobosiewicz commented that perhaps the solution is that during those hours where businesses are not operating, the lighting would be reduced to appropriate security level and not at the same level if the business were open and people were utilizing the parking lot.

Dave Warshauer interjected that the area is senior housing and townhomes—unlike the commercial developer on Michigan Road who does not think beyond his or her property line, this property line extends and Brenwick does have a vested interest in not disturbing its own prospective residents.

Tom Huston noted that lighting is part of the Design Review process and subject to the Village Architectural Review Board. What Jon has suggested is acceptable to Brenwick Development.

Jon Dobosiewicz proposed adding Section 21.9 and that would articulate that there are two distinct levels of night lighting—one while business is open, one when businesses are not open. At the time of TAC submittal, it will be reviewed for conformance with the Ordinance.

Page 49, No Issue.

Page 50, No Issue.

Page 51, there is reference to one major ground sign saying “WestClay Uptown” but Jerry Chomanczuk thought there were two ground signs. Tom Huston explained that there is a provision for a general identification sign located at the corner, and in the subsequent section, there are two tenant identification signs—one located at 131<sup>st</sup> Street, the other located at the entrance on Towne Road. Tom Huston said these signs may be illuminated, but they had no seriously considered how they would be illuminated.

Jon Dobosiewicz commented that the Department would be concerned with the sign at 131<sup>st</sup> and the sign on Towne Road, the color, and lettering. The Department would like these signs to be consistent letters with consistent background. Section 18.4B6 should specify consistency in the backgrounds.

Mark Rattermann had issue with the size of the signs—as big as garage doors! Mark suggested that the petitioner look at the signage again with a view towards reducing the height of signage—no higher than 6 feet.

Dave Warshauer noted that Towne Road would not be a highway, per se, but it will be a major north/south traffic carrier when fully built. Hazel Dell Parkway, 116<sup>th</sup> Street, Towne Road, and Carmel Drive are built to major capacity arteries. 131<sup>st</sup> Street, in this area, will be a fairly good size right-of-way with roundabouts to break it up. In thinking about the signage, please bear in mind that what is on the ground now is not what the Thoroughfare Plan calls for in 20 years and won’t be the case based on the improvements Brenwick will make along the right-of-way.

Mark Rattermann said this was a definite “deal breaker” for him—this is either neighborhood serving or it is not—it is either 126<sup>th</sup> & Gray Road or it’s not, and those signs are NOT neighborhood serving. The sign is a monster, that’s all there is to it, height is not going to cut it—it is size! “If this is a retail center, I’m done.”

Jerry Chomanczuk commented that within one week of store opening, the residents of WestClay would know where the stores are and huge signs will not be needed. Jerry Chomanczuk asked that the Committee defer the signage, that they “agree to disagree,” and move along.

Jon Dobosiewicz stated that signs higher than 6 feet are not allowed along US 31 or Michigan Road, with two exceptions. 60 square feet would be the next ratchet down on the Sign Ordinance scale for size, and this would be closer to what would be in line with the Ordinance.

Jerry Chomanczuk said there is room for compromise on the signage.

Page 52, No Issue.

Page 53, No Issue.

Page 54, No Issue.

Page 55, some language can be inserted regarding the “after hours lighting.” Tom Huston and Jon Dobosiewicz will hammer out the language and hand deliver to Commission Members so there is plenty of time for review.

Page 56, No Issue.

Page 57, No Issue.

Page 58, No Issue.

Pages 59 through the end of the document are signature pages, planting descriptions, etc.

The Committee wanted to work out compromises this evening so that another special meeting would not be necessary.

Jon Dobosiewicz and the petitioner will smooth out language regarding the lighting by email. Regarding the signage, the Committee was comfortable with 6 feet in height and 60 total square feet. The petitioner will draft the language and put into informational packets prior to the full Commission meeting on the 16<sup>th</sup> of November.

There were two recurring issues—density and uses. Jerry Chomanczuk commented that density alone will not indicate that the development will be a flawed project, compared with subdivisions he has seen and is familiar with. The quality of this development more than compensates for the density of the project.

Mark Rattermann moved to **forward Docket Nos. 04060035 OA and 04060036 Z, Village of WestClay** to the Plan Commission with a **favorable recommendation**, seconded by Madeleine Torres, approved 3-0.

There being no further business to come before the Committee, the meeting adjourned at 9:23 PM.

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Jerry Chomanczuk, Chairperson

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Ramona Hancock, Secretary